

REMARKS

In response to the Office Action transmitted March 17, 2010, please reconsider the above-captioned application in light of the above amendments and the following remarks.

Claims 21 and 24 have been amended in this Response; Claim 29 has been cancelled; and new Claims 42-47 have been added. Thus, Claims 10, 21, 22, 24, and 34-47 are pending and under consideration. Claims 2-4, 6, 8, 9, 11-15, 17-20, 25-28 and 30-33 remain pending but withdrawn from consideration.

Claims as Amended Define Over Cited References

The Examiner rejected all of the claims under 37 C.F.R. § 102(b) or 37 C.F.R. § 103(a) as being unpatentable or over Canadian Patent No. 2274066 to Zhu. Applicants have amended Claim 21 to clarify structure and relationships, which Applicants contend are quite different than taught by Zhu. As such, Applicants contend that the claims as pending define over Zhu.

Zhu is directed to a device and method for correctly positioning retractors relative to a blood vessel puncture. The device employs a dual lumen catheter 340. The inner lumen of the catheter is threaded over an existing guidewire that extends through the puncture and into the vessel. An indicator hole 352 is formed through the wall of the outer lumen, and the retractor 300 is attached to the catheter 340 proximal of the indicator hole 352. In operation, the tapered distal end of the catheter is pushed through patient body tissues and the puncture while a vacuum is pulled through the second lumen. When the indicator hole 352 enters the vessel, blood will be drawn into the second lumen, thus letting the clinician know that it is safe to open the retractor arms 308. Notably, during operation, no wound closure member is attached to any lumen opening, and both the inner lumen opening and the indicator hole pass through the puncture and into the blood vessel.

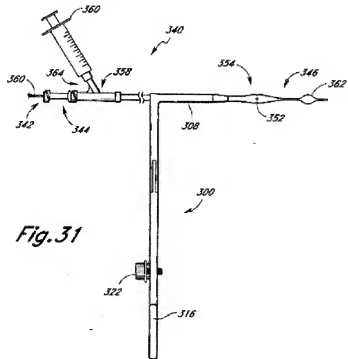


Fig. 31

In the embodiment discussed in connection with Figure 31, above, after the device is placed with the inner lumen opening and indicator hole in the vessel, the guidewire is removed and replaced with an inner catheter 360 having an inflatable balloon 362. Once the balloon is inflated, the balloon can plug the puncture from the inside of the vessel, and the catheter 340 can be removed. Another device can then be used to actually close the wound.

Claim 21 has been amended, and currently reads:

21. A device for at least partially closing an opening in tissue, comprising:
an elongate body comprising a first lumen having a first distal opening and a second lumen having a second distal opening, the lumens arranged so that a longitudinal space is defined between the first and second distal openings;
a first connector adapted to provide access to the first lumen;
a second connector adapted to provide access to the second lumen; and
a non-inflatable wound cover member releasably connected to the elongate body at the first distal opening in a manner so that the wound cover member remains connected when the device is advanced toward a wound;
wherein the device is configured so that, during advancement towards an opening in tissue and during operation, the first distal opening is permanently maintained at a position distal of the second distal opening, and the first and second lumens do not communicate with one another; and
wherein the wound cover member and the elongate body are configured so that when the wound cover member is released from the first distal opening of the elongate body at or adjacent an opening in tissue, the wound cover member is wholly disconnected from the device.

Zhu does not teach each of the limitations of amended Claim 21, and thus the rejection under §102 is overcome. Also, Zhu's method of operation requires both of its lumens to pass through the puncture wound and enter the vessel, and neither the balloon 362 nor any other member can be connected to the catheter's distal end during this use.

Also, with reference to the rejection under §103 of dependent Claim 37, Applicants respectfully traverse the rejection and disagree with the Examiner's treatment of Zhu. For example, Applicants contend that it is structurally implausible that an inflatable balloon 362 could be detached from its corresponding catheter 360 so as to instead be connected to another device (such as catheter 340). Further, in Zhu, the inflated balloon 362 appears not to connect to the distal end of the catheter 340, but instead engages the inner wall of the blood vessel. For at least these reasons, Applicants contend that Claim 37 is patentable over Zhu.

New Claims

Applicants have added new Claims 42-47 in order to more fully recite patentable subject matter. Each of the new claims depends from independent Claim 21. Applicants submit that these claims are currently in condition for allowance.

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Withdrawn Claims Should Be Returned to Consideration

Claims 2-4, 6, 8, 9, 11-15, 17-20 and 25-33 currently stand withdrawn from consideration as being directed to a nonelected invention. Each of these claims depends from independent Claim 21, which Applicants contend is now in condition for allowance. Since Claim 21 is allowable, Applicants respectfully request that the Examiner return these claims into consideration, as they are now in condition for allowance as well.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
LOMAU.159A	10/935,415	DRESSING DELIVERY SYSTEM FOR INTERNAL WOUNDS	09/07/04

Conclusion

Applicants respectfully submit that the rejections and objections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless,

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if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 09/17/10 _____

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